

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Case No. 1:18-CV-68
	§	
UNITED STATES OF AMERICA, <i>et al.</i> ,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
KARLA PEREZ, <i>et al.</i> ,	§	
	§	
Defendant-Intervenors,	§	
	§	
and	§	
	§	
STATE OF NEW JERSEY,	§	
	§	
Defendant-Intervenor.	§	

DEFENDANT-INTERVENORS’ UNOPPOSED MOTION TO WITHDRAW EXHIBIT 76

Defendant-Intervenors Karla Perez, *et al.* (“Defendant-Intervenors”) respectfully request that the Court withdraw Defendant-Intervenors’ Exhibit 76 to their response to Plaintiffs’ motion for a preliminary injunction because Defendant-Intervenors inadvertently filed that exhibit with the Court. *See* Dkt. 225-3 at 183-204 (Def-Int. Ex. 76).

I. Argument

Defendant-Intervenors filed their response to Plaintiffs’ motion for a preliminary injunction and Exhibit 76 on July 21, 2018. Dkt. 224. At the time, Defendant-Intervenors’ motion requesting leave of Court to present the testimony of Mr. Stephen H. Legomsky, a former federal employee, was pending before the Court. *See* Dkt. 138. However, Defendant-

Intervenors inadvertently filed a draft of Mr. Legomsky's declaration as Exhibit 76 to their response brief. *See* Dkt. 225-3 at 183-204.¹ On July 25, 2018, the Court entered an order granting Defendant-Intervenors' request to present Mr. Legomsky's testimony. Dkt. 257. Shortly thereafter, in anticipation of Mr. Legomsky's deposition, counsel for Defendant-Intervenors disclosed to all parties the final declaration of Mr. Legomsky, and Plaintiffs and Federal Defendants deposed Mr. Legomsky on August 1, 2018. *See* Dkt. 291-2. On August 4, 2018, Defendant-Intervenors filed the final declaration of Mr. Legomsky as Exhibit 150 to their supplemental response brief. *See* Dkt. 289-1 at 2.

Plaintiffs, Federal Defendants, and Defendant-Intervenor New Jersey do not oppose this motion. In addition, Defendant-Intervenors disclosed Mr. Legomsky's final declaration to all parties prior to his deposition, and Plaintiffs and Federal Defendants will not be prejudiced by the withdrawal of Exhibit 76.

II. Conclusion

For the foregoing reasons, Defendant-Intervenors respectfully request that the Court instruct the Clerk's Office to withdraw the draft of Mr. Legomsky's testimony, which was inadvertently filed without leave of Court as Exhibit 76 to Defendant-Intervenors' response brief, from the record. *See* Dkt. 225-3 at 183-204.

Dated: August 6, 2018

Respectfully Submitted

**MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND**

By: /s/ Nina Perales
Nina Perales (Tex. Bar No. 24005046);
(SD of Tex. Bar No. 21127)

¹ This mistake resulted from a clerical error. Defendant-Intervenors filed Exhibit 150 as a placeholder for Mr. Legomsky's declaration with the intent to replace that placeholder when and if the Court granted them leave to file this testimony; however, Defendant-Intervenors inadvertently failed to withdraw the draft of Mr. Legomsky's declaration, which mistakenly remained in the appendix as Exhibit 76. *See* Dkt. 224-1 at 3, 6.

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CERTIFICATE OF CONFERENCE

I certify that on August 6, 2018, counsel for the parties conferred regarding the relief requested in this motion. Counsel for Plaintiffs and Federal Defendants indicated that they do not oppose this motion, with Plaintiffs clarifying this did not limit their ability to use the former declaration should the need arise. Counsel for the State of New Jersey as Defendant-Intervenor indicated that they do not oppose this motion.

/s/ Nina Perales
Nina Perales

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on August 6, 2018, I electronically filed the above and foregoing document using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Nina Perales
Nina Perales